

Remarks/Arguments

Reconsideration of this application in light of the above amendments and the following remarks is requested. Claims 1, 18, and 28 have been canceled, claims 19-26 and 29-31 have been amended, claims 27 and 32-34 have been withdrawn, and claims 35-42 have been added. Thus, claims 1, 19-26, 29-31, and 35-42 are currently pending in the application.

Claim Objections

Claim 30 was objected to under 37 C.F.R. 1.142(c) as being in improper form as being a multiple dependent claim depending from one or more multiple dependent claims. Amendments in claims from which claim 30 depends have been amended, in part, to address this issue.

Claim 31 was objected to under 37 C.F.R. 1.142(c) as being in improper form for being a multiple depended claim failing to refer to other claims in the alternative only. Claim 31 has been amended to address this objection.

Claims 19, 20, 22, 23, 25, and 26 were objected to as depending on rejected base claims. The Official Action indicated that these claims would be allowable if rewritten in independent form including the base claim and any intervening claims. Claim 19 was amended to incorporate base claim 1 and intervening claim 18. Claims 1 and 18 were canceled. Thus claim 19 should be in condition for allowance. Claims 20-23 have been amended to depend from and further limit allowable claim 19 and should therefore be allowable as well. Claim 25 has been amended to incorporate base claim 24 and should therefore be allowable. Claim 26, which depends from and further limits claim 25, should also be allowable.

Rejections under 35 U.S.C. § 112

Claims 28 and 30 were rejected under 35 U.S.C. § 112 for use of the term, “and/or.” Claim 28 has been cancelled and claim 30 has been amended to overcome the 35 U.S.C. § 112 rejection.

Rejections under 35 U.S.C. § 102

Claims 24 and 29 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,683,379 to Hohla (“Hohla”). As stated in the MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim...” However, Hohla fails to teach each and every element of either claim 24 or claim 29.

Claim 24 recites in part, “the effect of the angle between the laser beam and the corneal surface on the fraction of the laser-beam energy incident on the corneal surface which is reflected away is taken into account.” This is neither taught nor suggested by the Hohla reference. As noted in the Official Action, “Hohla discloses [a] control program, according to which a laser-beam spot is guided, while being controlled with respect to position, time and angle, over the cornea to be corrected...” Therefore, Hohla fails to teach every element of claim 24, and the 35 U.S.C. § 102(b) rejection should be withdrawn.

Claim 29 recites in part, “the control program takes into account the effect of the angle between the laser beam (68) and the corneal surface on the energy density of the laser-beam spot incident on the corneal surface.” This is neither taught nor suggested by the Hohla reference. As noted in the Official Action, “Hohla discloses [a] control program, according to which a laser-beam spot is guided, while being controlled with respect to position, time and angle, over the cornea to be corrected...” Therefore, Hohla fails to teach every element of claim 29, and the 35 U.S.C. § 102(b) rejection should be withdrawn.

Claims 24 and 29 were also rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,673,063 to Yi, et al. (“Yi”). As previously stated, to anticipate either claim, the Yi reference must teach every element of the claim. The Applicant submits that Yi fails to teach or even suggest every element of claim 24 or 29.

As stated, claim 24 recites in part, “the effect of the angle between the laser beam and the corneal surface on the fraction of the laser-beam energy incident on the corneal surface which is reflected away is taken into account.” This is neither taught nor suggested by the Yi reference. As noted in the Official Action, “[Yi discloses] a control program [that] takes into account the time, position, and the angle between the laser beam and the corneal surface...” Therefore, Yi fails to teach every element of claim 24, and the 35 U.S.C. § 102(b) rejection should be withdrawn.

As stated, claim 29 recites in part, “the control program takes into account the effect of the angle between the laser beam (68) and the corneal surface on the energy density of the laser-beam spot incident on the corneal surface.” This is neither taught nor suggested by the Yi reference. As noted in the Official Action, “[Yi discloses] a control program [that] takes into account the time, position, and the angle between the laser beam and the corneal surface...” Therefore, Yi fails to teach every element of claim 24, and the 35 U.S.C. § 102(b) rejection should be withdrawn.

New Claims

New claims 35-43 have been added. These claims are neither taught nor suggested by the Hohla or Yi references. The Official Action notes that the Hohla reference, “discloses [a] control program, according to which a laser-beam spot is guided, while being controlled with respect to position, time and angle, over the cornea to be corrected...” The Official Action notes that the Yi reference discloses, “a control program [that] takes into account the time, position, and the angle between the laser beam and the corneal surface...” Since both of these reference fail to teach each and every element as claimed in the newly added claims, the new claims should be allowable over the cited art.

Conclusion

All of the rejections and objections to the claims having been addressed, it is clear that all pending claims are in condition for allowance. Notice of allowance of all pending claims is therefore requested.

Respectfully submitted,

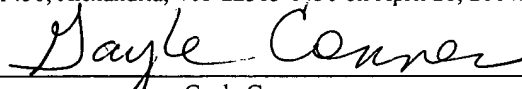


David M. O'Dell
Reg. No. 42,044

Dated: April 28, 2004
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: 972-680-7557
File: 31567.4

r-71877.1

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Gayle Conner